

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

L & W, INC., a Michigan corporation,

Plaintiff/Counter-Defendant,

Case No. 01-73892

v.

Hon. John Corbett O'Meara

SHERTECH, INC., a Missouri corporation,  
and STEVEN W. SHERIDAN, an individual,

Defendants/Counter-Plaintiffs.

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**ORDER DENYING SHERTECH'S MOTION FOR PERMISSION  
TO FILE AMENDED SUMMARY JUDGMENT MOTION**

Before the court is Defendant Shertech's motion for permission to file an amended summary judgment motion, filed March 9, 2007. Plaintiff L & W, Inc., filed a response in opposition to Shertech's motion on March 23, 2007.

After proceedings in this court, this matter was affirmed in part, reversed in part, and remanded by the United States Court of Appeals for the Federal Circuit. The mandate was issued on January 4, 2007. This court had entered summary judgment in favor of Shertech on its infringement claim. The Federal Circuit reversed, finding that Shertech did not meet its burden of proof on a part-by-part basis.

Shertech now seeks to file a summary judgment motion to present proof of infringement on a part-by-part basis. Shertech's motion is predicated in part on a new report prepared by its expert on March 6, 2007. L & W objects to the introduction of the new expert report and asserts that this matter should proceed to trial.

Based upon L & W's objections, the court declines to permit Shertech to file a summary judgment motion. The court will schedule this matter for trial.

Accordingly, IT IS HEREBY ORDERED that Shertech's March 9, 2007 motion for permission to file an amended summary judgment motion is DENIED.

IT IS FURTHER ORDERED that the parties shall submit a joint final pretrial order by May 9, 2007. The court will conduct a final pretrial conference on May 16, 2007, at 1:30 p.m.

s/John Corbett O'Meara  
United States District Judge

Dated: April 10, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 10, 2007, by electronic and/or ordinary mail.

s/William Barkholz  
Case Manager